

REMARKS

Claims 1-3, 5-13, 16, 18-23 and 29-35 are now pending. By this Amendment, claims 1 and 30 are amended and claim 14 is canceled.

Entry of the amendments is proper under 37 CFR §1.116 since the amendments: (a) place the application in condition for allowance for the reasons discussed herein; (b) do not raise any new issue requiring further search and/or consideration since the amendments merely cancel a dependent claim; and (c) place the application in better form for appeal, should an appeal be necessary. The amendments are necessary and were not earlier presented because they are made in response to arguments raised in the final rejection. Entry of the amendments is thus respectfully requested.

Claims 13 and 33 are objected to under 37 C.F.R. §1.75(c) for failing to further limit the subject matter of the previous claim. However, it is respectfully submitted that claims 13 and 33 do further limit the subject matter of claims 1 and 30, respectively, on which they depend.

In particular, claim 1 recites that "where water is one of the constituents, it is part of the biodermal fraction and represents a minor part by weight of said composition." Similarly, claim 30 recites that "where water is one of the biodermal constituents, it represents a minor part by weight of the composition." Neither claim 1 nor claim 30 requires that water be a constituent of the composition. Instead, these claims merely recite that where water is a constituent, it represents a minor part by weight of the composition. Thus, the recitations in claims 13 and 33 that the compositions comprise water do further define the invention of claims 1 and 30, respectively. In particular, claims 13 and 33 require that water be present in the composition, whereas claims 1 and 30 do not.

Claims 13 and 33 further define the invention of claims 1 and 30, respectfully. Therefore, the objection of these claims should be reconsidered and withdrawn.

Claims 1-3, 5-14, 16, 18-23 and 29-35 are rejected under 35 U.S.C. §112, second paragraph. Claim 14 has been canceled herein rendering the rejection of this claim moot.

With regard to claims 1 and 30, Applicant respectfully traverses the rejection.

As discussed above, claims 1 and 30 each recite that where water is a constituent of the composition "it represents a minor part by weight" of the composition. The specification clearly recites at paragraph [0014] of the published version of this application that a product in which water is predominant by weight in the total composition of the product is excluded. Thus, the recitation in claims 1 and 30 that water is a minor part by weight of the composition clearly means that the amount of water by weight is less than 50% of the total weight of the composition, i.e., it is not predominant by weight in the total composition of the product.

Claims 1 and 30 clearly define the invention. Therefore, the rejection of claims 1 and 30 and claims that depend thereon under 35 U.S.C. §112, second paragraph, should be reconsidered and withdrawn.

Claims 1-3, 5-8, 12-14, 16, 18-23 and 29-35 are rejected under 35 U.S.C. §102 over Marieb in light of a website printout. Applicant respectfully traverses the rejection.

Marieb describes sweat and sebum. Marieb does not teach a cosmetic or dermo-therapeutic composition. In particular, neither sweat nor sebum constitute a cosmetic or dermo-therapeutic composition, which is implicitly directed to certain forms of presentations, such as milks, creams, lotions, etc. Sweat and sebum are each natural excretions or secretions from skin and cannot constitute a cosmetic or dermo-therapeutic composition. In addition, the extract composition of such a natural excretion, in particular in quantitative terms, is not known, and may vary substantially from one time to another, and from one individual to another, within substantially important limits.

Even one of less than ordinary skill in the art would recognize that sweat and sebum would not be considered a cosmetic or dermo-therapeutic composition, noting that: sebum

does not smell fine, is not pleasant to touch, and gets oxidized very rapidly (these remarks also apply to sweat in some respects); it is precisely the function of some cosmetic products to defeat the adverse or unpleasant effects of sebum and sweat; sweat and sebum do not have a cosmetic form of presentation, such as creams, lotions, etc.; and nobody has ever considered to harvest human sweat or sebum, so as to make or obtain cosmetic or dermo-therapeutic products.

It is also noted that sweat is clearly not encompassed by the present claims. In particular, claims 1 and 30 each specifically recite that water, if present, is only a minor part by weight of the composition. In contrast, sweat is mostly water. In fact, Marieb indicates that it is 99% water. Page 144, col. 2, line 6. Thus, sweat is clearly not encompassed by claims 1 and 30.

Marieb does not teach each and every feature of the present claims. Therefore, the rejection over Marieb should be reconsidered and withdrawn.

Claims 1-3, 5-14, 16, 18-23 and 29-35 are rejected under 35 U.S.C. §103 over U.S. Patent No. 5,250,513 to N'Guyen et al. (hereinafter "N'Guyen"). Applicant respectfully traverses the rejection.

N'Guyen teaches an antioxidant system based on at least one basic amino acid and including at least one tocopherol or a derivative thereof and at least one nonthiolated polypeptide. N'Guyen indicates that preferably the antioxidant system contains from 0.5 to 20 weight percent of a tocopherol or derivative thereof, 0.5 to 50 weight percent of a basic amino acid and 0.5 to 90 weight percent of a nonthiolated polypeptide. See the Abstract.

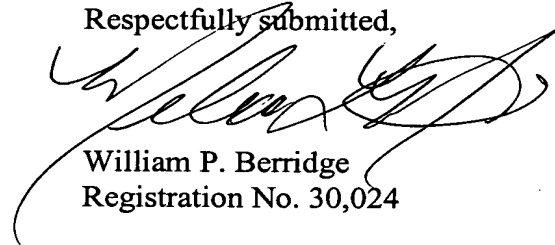
N'Guyen teaches that this antioxidant system is employed in cosmetics or pharmaceutical compositions. See the Abstract. N'Guyen does not teach or suggest that at least 98% of the resulting cosmetic or pharmaceutical compositions contain biodermal constituents. See, in particular, the exemplified compositions at columns 5 and 6 of N'Guyen,

which are clearly not encompassed by claims 1 and 30. Thus, N'Guyen does not teach or suggest the compositions of claims 1 and 30. Therefore, the rejection over N'Guyen should be reconsidered and withdrawn.

In view of the foregoing, it is respectfully submitted that this application is in condition for allowance. Favorable reconsideration and prompt allowance of claims 1-3, 5-13, 16, 18-23 and 29-35 are earnestly solicited.

Should the Examiner believe that anything further would be desirable in order to place this application in even better condition for allowance, the Examiner is invited to contact the undersigned at the telephone number set forth below.

Respectfully submitted,



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